

STATE OF MICHIGAN
COURT OF APPEALS

WILLIE B. WHITE,

Plaintiff-Appellant,

v

GENERAL MOTORS CORPORATION,

Defendant-Appellee.

UNPUBLISHED
October 15, 1999

No. 208149
Wayne Circuit Court
LC No. 96-628311 CZ

Before: White, P.J., and Hood and Jansen, JJ.

PER CURIAM.

Plaintiff filed a complaint alleging that she was discharged from her employment with defendant in retaliation for filing a claim for benefits under the Worker's Disability Compensation Act, contrary to MCL 414.301(11); MSA 17.237(301)(11). The trial court granted defendant's motion for summary disposition pursuant to MCR 2.116(C)(10) (no genuine issue of material fact). Plaintiff appeals as of right. We affirm.

This Court reviews de novo a trial court's decision on a motion for summary disposition. *Baker v Arbor Drugs, Inc.*, 215 Mich App 198, 202; 544 NW2d 727 (1996). A motion under MCR 2.116(C)(10) tests the factual support for a claim. Summary disposition should be granted if, except regarding the amount of damages, there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Babula v Robertson*, 212 Mich App 45, 48; 536 NW2d 834 (1995). The court must consider the pleadings, affidavits, depositions, admissions, and any other documentary evidence submitted by the parties. The court must review the evidence and all reasonable inferences drawn from the evidence to decide whether a genuine issue of material fact exists to allow the case to proceed to trial. *Baker, supra* at 202.

Plaintiff alleges that she was discharged in retaliation for filing a worker's compensation claim, in violation of MCL 418.301(11); MSA 17.237(301)(11), which provides:

A person shall not discharge an employee or in any manner discriminate against an employee because the employee filed a complaint or instituted or caused to be

instituted a proceeding under this act or because of the exercise by the employee on behalf of himself or herself or others of a right afforded by this act.

In order to make a prima facie case of retaliatory discharge, plaintiff was required to show that the filing of her claim for worker's compensation benefits was a significant factor in defendant's decision to discharge her. *Goins v Ford Motor Co*, 131 Mich App 185, 198; 347 NW2d 184 (1983). See also *Phillips v Butterball Farms Co, Inc, (After Second Remand)*, 448 Mich 239, 246-248; 531 NW2d 144 (1995) (Legislature, in enacting MCL 418.301(11); MSA 17.237(301)(11), intended to codify prior judicial decisions).

A retaliatory discharge claim requires the plaintiff to establish the following elements: (1) that the plaintiff was engaged in a protected activity; (2) that this was known by the defendant; (3) that the defendant took adverse employment action against the plaintiff; and (4) that there was a causal connection between the protected activity and the adverse employment action. *DeFlaviis v Lord & Taylor, Inc*, 223 Mich App 432, 436; 566 NW2d 661 (1997); see also *Lamoria v Health Care & Retirement Corp*, 233 Mich App 560, 562; 593 NW2d 200 (1999) (special conflict panel), adopting *Lamoria v Health Care & Retirement Corp*, 230 Mich App 801, 818-819; 584 NW2d 589 (1998). Once the plaintiff establishes a prima facie case of discrimination, the burden shifts to the defendant to show that it had a legitimate, nondiscriminatory reason for its action. *McLemore v Detroit Receiving Hosp*, 196 Mich App 391, 399; 493 NW2d 441 (1992). If the defendant articulates such a reason, the burden shifts back to the plaintiff to show that the reason offered by the defendant was a mere pretext for discrimination. *Feick v Monroe Co*, 229 Mich App 335, 343; 582 NW2d 207 (1998).

A plaintiff can establish that a defendant's articulated legitimate, nondiscriminatory reasons are pretexts (1) by showing the reasons had no basis in fact, (2) if they have a basis in fact, by showing that they were not the actual factors motivating the decision, or (3) if they were factors, by showing that they were jointly insufficient to justify the decision. [*Id.* at 343.]

In this case, the evidence submitted demonstrates that there is no genuine issue of material fact regarding the existence of a causal connection between the protected activity (filing a claim for worker's compensation benefits) and the adverse employment action. Although plaintiff was discharged approximately one month after filing her claim for worker's compensation benefits, the evidence shows that she was advised repeatedly by defendant's human resource manager, before she was fired and before she filed her claim for worker's compensation benefits, that she was required to return to work after her medical leave ended and that her job would be in jeopardy if she did not report. Plaintiff was evaluated by defendant's doctors during this period and was determined to be physically fit to return to work. Defendant ultimately terminated plaintiff's employment, in accordance with its prior warnings, after she failed to return to work. We agree with the trial court that plaintiff is unable to show a connection between her firing and her request

for worker's compensation benefits. Moreover, there is no evidence of a connection between the actions of the human resources manager and the plant doctor in the decision to terminate plaintiff's employment. Thus, summary disposition was properly granted.

Affirmed.

/s/ Helene N. White

/s/ Harold Hood

/s/ Kathleen Jansen